

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 SANTO DOMINGO 004390

SIPDIS

SENSITIVE

DEPT FOR WHA AND G/TIP

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [KCRM](#) [PHUM](#) [PINR](#) [DR](#)

SUBJECT: DOMINICAN REPUBLIC NATIONAL POLICE CHIEF CONTINUES
TO SUPPORT US

REF: SANTO DOMINGO 4249

11. (SBU) SUMMARY. Ambassador Hertell met with the Dominican Republic's Director of the National Police, Jaime Marte Martinez, to introduce DCM Lisa Kubiske and to thank the Director for his support in establishing an Anti-Trafficking in Persons Investigation Unit as part of the National Police's Fraud Section. The Director outlined some of the procedural issues which will complicate the arrest of legislator Radhames Garcia now that Congress is in session. Marte Martinez downplayed the potential for uncontrolled demonstrations or riots after the Pan American Games. END SUMMARY.

PRO-YANKEE POLICE CHIEF

12. (SBU) Ambassador Hertell met with the Director of the National Police for the Dominican Republic to introduce DCM Lisa Kubiske and to thank the Director for his efforts to combat Trafficking in Persons. Pleased, Marte Martinez described himself as a friend, an ally and as "pro-yankee".

HOW CAN GARCIA BE ARRESTED?

13. (SBU) In response to the Ambassador's question about suspected alien smuggler Radhames Garcia, Marte Martinez confirmed his view that immunity attaches to Garcia, a Deputy, when Congress is in session. Marte Martinez stated that if Garcia is found in the next day or so, the outstanding arrest warrant could be executed because, in his opinion, it was an open question as to whether Congress is legally in session. The events of August 16, in which shots were fired as voting for a new Lower Chamber president was in progress, have left the competing political parties vying for control (reftel). If the faction led by Lila Alburquerque (former president of the Lower Chamber) produces evidence that the vote was illegal or that a recognized recess had been called before the vote took place, an argument can be made that the August session of Congress has not been legally opened. Hence, Garcia would not have immunity and could be arrested. Nevertheless, if he were to be arrested now, he would probably claim constitutional immunity on grounds that the Congress was properly called into session on August 16. NOTE: Marte Martinez seemed to be looking for a scenario and legal justification for Garcia's arrest. Although possible, the scenario was unlikely. Garcia did not show up for the scheduled opening of Congress on August 16 and had not been spotted by national police surveillance until he appeared outside Congress on August 20. Alburquerque's faction failed to produce evidence that Congress was illegally in session and the Lower Chamber has been operating in session since August 19. Garcia's immunity is currently in force. END NOTE.

14. (SBU) Ambassador Hertell asked whether there are any circumstances in which a Senator or Congressman could be arrested while Congress is in session. Marte Martinez replied that a Congressman could be arrested if caught in the act of committing a crime - a "caso flagrante". Marte Martinez insisted that accusations against Garcia could not be interpreted as a "caso flagrante". Consequently, prosecutors could not apply this exception to the general immunity provision in the constitution.

INFORMATION ON LOWER CHAMBER SHOOTING

15. (SBU) In regard to the incident in the Lower Chamber, Marte Martinez said the shots fired were aimed at the ceiling. The electric power to the Chamber had been cut prior to the shooting. He noted that jurisdiction for the case is with the Legislative Branch of the Government because the shooting took place in Congress. The National Police will not investigate unless asked to do so by the Legislative Branch.

POSSIBLE DEMONSTRATIONS AND UNREST

16. (SBU) Marte Martinez expressed relief that there were no major incidents during the Pan American Games. He acknowledged rumors of possible demonstrations after the Games, but thought that if they were to occur they would be political in nature, at the prodding of opposition party members. He did not give the impression that the National Police have geared up for any increase in demonstrations. NOTE: Marte Martinez did not exclude the possibility that there would be protests, but he did not think they would amount to uncontrollable demonstrations. END NOTE.

17. (SBU) COMMENT: Marte Martinez has worked with the Embassy in the past on a range of issues from TIP to consular fraud investigations. He has proved to be helpful and reliable, an enormous change for the good compared with his predecessor. We expect this close cooperation and strong working relationship to continue. END COMMENT.
HERTELL